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SENATE

{ REPORT
105-312

DELAWARE AND LEHIGH NATIONAL HERITAGE CORRIDOR ACT AMENDMENTS OF 1998

SEPTEMBER 8 (legislative day, AUGUST 31), 1998.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural
Resources, submitted the following

REPORT

[To accompany S. 1665]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1665) to reauthorize the Delaware and Lehigh Navigation Canal National Heritage Corridor Act, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. On page 2, strike lines 22 through 24 and insert in lieu thereof the following:

“ (2) 3 individuals appointed by the Secretary upon consideration of individuals recommended by the governor, of whom—”

2. On page 3, strike lines 13 and 14 and insert in lieu thereof the following:

“ing: ‘the Secretary upon consideration of individuals recommended by the governor, of whom—”

3. On page 4 strike lines 3 and 4 and insert in lieu thereof the following:

“ following, the Secretary upon consideration of individuals recommended by the governor, of whom—”

4. On page 5 strike lines 7 through 14.

5. On page 6 of the bill strike lines 7 through 20.

6. On page 7 of the bill strike lines 15 and 16 and insert in lieu thereof the following;

“inserting ‘directly affecting the purposes of the Corridor’.”

7. Add a new Section 11 at the end of the bill to read as follows:

“SEC. 11. DUTIES OF THE SECRETARY.

“Section 10(d) of the Delaware and Lehigh National Heritage Corridor Act of 1988 (Public Law 100–692; 102 Stat. 4557) is amended by striking the subsection and inserting ‘(d) TECHNICAL ASSISTANCE AND GRANTS.—The Secretary, upon request of the Commission, is authorized to provide grants and technical assistance to the Commission or units of government, nonprofit organizations, and other persons, for development and implementation of the Plan.’ ”.

PURPOSE OF THE MEASURE

The purpose of S. 1665, as ordered reported, is to extend the term of the Delaware and Lehigh Navigation Canal National Heritage Corridor Commission for a period of ten years and provide a \$300,000 increase in the appropriation ceiling for commission operations.

BACKGROUND AND NEED

The Delaware and Lehigh Navigation Canal National Heritage Corridor (Corridor) was established by an act of Congress in 1988 (P.L. 100–692). The Corridor is an affiliated unit of the National Park System and managed by the Delaware and Lehigh Navigation Canal National Heritage Corridor, a Federal commission. Commission members consist of the National Park Service, representatives from the various State and local governments, and private and non-profit interests whose goal is to unify resource preservation and economic development throughout the Corridor.

The Delaware and Lehigh National Heritage Corridor is located in eastern Pennsylvania, and is approximately 150 miles long and includes 5 counties and 200 municipalities. The central feature of the corridor is the Lehigh Navigation Canal which links a variety of historic, cultural, natural and recreation resources.

Implementation of the Delaware and Lehigh National Heritage Corridor’s plan took four years longer than the two years provided in the enabling legislation for the development and approval of the corridor plan by the Secretary of the Interior. Rather than the 10 years originally contemplated, the commission has had less than half that time to become fully operational. Entities within the Delaware and Lehigh National Heritage Corridor have worked to carry out the mandate of Congress demonstrating that economic development and resource preservation can be complementary and mutually supportive.

LEGISLATIVE HISTORY

S. 1665 was introduced by Senators Specter and Santorum on February 23, 1998 and referred to the Committee on Energy and Natural Resources. The Subcommittee on National Parks, Historic Preservation, and Recreation held a hearing on S. 1665 on June 18, 1998.

At its business meeting on July 29, 1998, the Committee on Energy and Natural Resources ordered S. 1665, as amended, favorably reported.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on July 29, 1998, by a unanimous voice vote of a quorum present, recommends that the Senate pass S. 1665, if amended as described herein.

COMMITTEE AMENDMENTS

During the consideration of S. 2276, the Committee adopted several amendments, which made the following changes: eliminates the authority for the Delaware and Lehigh Navigation Canal National Heritage Corridor Commission to administer grants and keeps such authority with the Secretary; clarifies that the duties of other Federal entities consist of only those duties that directly affect the purposes for which the Corridor was established; addresses the Administration's concern regarding the Appointments Clause of the Constitution ensuring that the Secretary is not bound by the recommendations made by the Governor for appointments of individuals to the Commission; and eliminates the bills requirement that the Secretary accept or reject a nomination not later than 60 days after receiving a nomination from the Governor.

SECTION BY SECTION ANALYSIS

Section 1 designates the bill's short title as "Delaware and Lehigh National Heritage Corridor Act Amendments of 1998".

Section 2 amends the Delaware and Lehigh Navigation Canal National Heritage Corridor Act of 1988 (Public Law 100-692) and changes the name of the "Delaware and Lehigh Navigation Canal National Heritage Corridor" to the "Delaware and Lehigh National Heritage Corridor" (the Corridor).

Section 3 expands the purposes of Public Law 100-692 to include "enhancing development within the context of preservation."

Section 4 amends Public Law 100-692 changing the makeup of the Corridor Commission from four individuals appointed by the Secretary and eight individuals from the general public to three individuals appointed by the Secretary and nine individuals from the general public. This section will also limit Commission members to two 3-year terms.

Sections 5, 6, and 8 make a number of minor technical and clarifying changes to Public Law 100-692.

Section 7 amends Public Law 100-692 by changing the time frame to implement the Corridor's management plan to 10 years from the date of enactment of this legislation.

Section 9 amends Public Law 100-692 to increase the appropriation only for the Commission from \$350,000 to \$650,000. Subsection (c) is added to Section 12 authorizing the appropriation of \$1,000,000 to the Secretary of the Interior to implement the management action plan for each of the years beginning in fiscal year 1998 through 2007.

Section 10 redesignates section 13 as section 14 of Public Law 100–692, and inserts a new section 13. The new section 13 clarifies that the Commission will not interfere with the rights of private property owners, any local zoning ordinances or land use plans of the Commonwealth of Pennsylvania.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 14, 1998.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1665, the Delaware and Lehigh National Heritage Corridor Act Amendments of 1998.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis.

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 1665—Delaware and Lehigh National Heritage Corridor Act Amendments of 1998

Summary: S. 1665 would extend for an additional 10 years the life of the Delaware and Lehigh Navigation Canal National Heritage Corridor Commission (and would rename it the Delaware and Lehigh National Heritage Corridor Commission). The commission, which coordinates federal, state, and local projects within the heritage corridor and advises the National Park Service (NPS), would otherwise expire at the end of fiscal year 1998. The bill would authorize the appropriation of \$650,000 annually for the commission's operating expenses and \$1 million annually through fiscal year 2007 for its expenses to implement a management action plan. Other provisions of the bill would have no impact on the federal budget.

S. 1665 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. S. 1665 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: Assuming appropriation of the authorized amounts, CBO estimates that implementing the bill would cost \$1.65 million in fiscal year 1999 and a total of about \$8 million over the 1999–2003 period. The annual payment to the commission would be about \$1.3 million greater than the amount appropriated for fiscal year 1998. The estimated budgetary impact of S. 1665 is shown in the following table. The costs of this

legislation fall within budget function 300 (natural resources and environment).

[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002	2003
SPENDING SUBJECT TO APPROPRIATION						
Spending under current law:						
Budget authority ¹	(1)	0	0	0	0	0
Estimated outlays	(1)	0	0	0	0	0
Proposed changes:						
Authorization level	0	2	2	2	2	2
Estimated outlays	0	2	2	2	2	2
Spending under S. 1665:						
Authorization level ¹	(1)	2	2	2	2	2
Estimated outlays	(1)	2	2	2	2	2

¹ In fiscal year 1998, \$350,000 was appropriated for the Delaware and Lehigh Navigation Canal National Heritage Corridor Commission.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: S. 1665 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Deborah Reis.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1665. The bill is not a regulatory measure in the sense of imposing Government-established standards of significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from enactment of S. 1665, as ordered reported.

EXECUTIVE COMMUNICATIONS

The testimony of the Department of the Interior at the Subcommittee hearing follows:

STATEMENT OF DESTRY JARVIS, ASSOCIATE DIRECTOR, EXTERNAL AFFAIRS, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to testify on S. 1665, a bill to reauthorize the Delaware and Lehigh Navigation Canal National Heritage Corridor Act. The Delaware and Lehigh National Heritage Corridor is located in eastern Pennsylvania, and is approximately 150 miles long and includes 5 counties and 200 municipalities.

This bill would extend the term of the Corridor Commission an additional 10 years and provide a \$300,000 increase in the appropriation ceiling for commission operations. The bill would also establish a ceiling for commission projects of \$1,000,000 while requiring a 50% match;

permit the commission to administer grants or loans from appropriated or donated funds; refine the membership criteria of the commission, and make various other perfecting amendments to existing law.

Mr. Chairman, we support this reauthorization of the National Heritage Corridor, subject to modifications proposed below. The Delaware and Lehigh National Heritage Corridor is working well. It has demonstrated that it uses its money well. It is particularly encouraging that as a heritage corridor it is getting better and stronger. The commission is accomplishing its purpose as a management framework to focus public and private energy and resources on protecting and interpreting the distinctive character and resources of this region. It should be extended.

The Delaware and Lehigh Navigation Canal National Heritage Corridor is an affiliated unit of the National Park System and was established in November 1988. The central feature of the corridor is the Lehigh Navigation Canal, a vital strategic resource, which links a variety of significant historic, cultural, natural and recreation resources. These resources illustrate themes of community, civic and religious development; of industrial, transportation, and technological development; and—more recently—community regeneration based on the value and strength of our American heritage.

The commission that manages the corridor is a federal, operating commission. One member of the commission and one member of the corridor staff are National Park Service employees. All others are representatives of the various state and local government and private and non-profit interests who are the players whose actions and decisions will be crucial to the future of the region. The NPS is a visible and effective partner, but has a modest overall role. The commission is a convener that has been effective in unifying these interests around a common agenda. The commission has had many projects that have successfully leveraged and focused non-federal as well as federal funds from agencies other than the National Park Service.

Implementation of the Delaware and Lehigh National Park Corridor's plan took 4 years longer than the 2 provided by Congress for the development and approval by the Secretary of the Interior of the corridor plan. Rather than 10 years, the commission has actually had less than half that time to be fully operational. The statute prevented the commission from implementing any significant early action from 1988 until 1994, when the plan was approved. Each of the heritage areas designated prior to 1990 experienced some similar growing pains, and surely some of that delay was caused by apprehension of what might go wrong with this new experiment, rather than celebrating what could be accomplished by pride and commitment.

The heritage area/corridor strategy is far better understood today. In view of these delays, the success of this

commission is all the more remarkable and is further justification for this continued operation. We should determine the longevity of a partnership strategy by the strength of the continued commitment of the partners to get the job done.

Mr. Chairman, the funding levels and matching requirement proposed in this legislation are consistent with the levels established for the heritage areas in the Omnibus Parks and Public Lands Management Act of 1996. However, in that Act, for example in Division II, Section 809, the authority to make grants is provided to the Secretary and not the commission as is provided in Section 5 of this bill. Management of all elements of a grants program can be a burden for a small commission. We recommend the Secretary be authorized to provide grants, upon request of the commission, for the implementation of the heritage corridor's Cultural Heritage and Corridor Management Plan. We also recommend that the funds be appropriated to the Secretary for transfer to the Commission as was done in FY 98, rather than being appropriated directly to the Commission.

We also disagree with the loan authority as proposed for the commission in Section 5. As proposed, no criteria or administrative guidelines are provided, and possible liability is not addressed. Further, such loans would be subject to the Federal Credit Reform Act of 1990, which has management requirements that would be a burden for a small commission.

We have no objection to the restructuring of the membership of the commission, which reflects changes in state government and the needs of the national heritage corridor. However, to avoid conflict with the Appointments Clause of the U.S. Constitution, we recommend the language be modified in Section 4 to provide in each case that the Secretary shall make his appointments "upon consideration of individuals recommended by the Governor" rather than "from among" the Governor's recommendations. This provides the appropriate discretion for the Secretary while at the same time indicating the key interests whose presence on the commission has strategic value.

Finally, in Section 8, we suggest the language be simplified to read "directly affecting the purposes of the Corridor" as having greater statutory meaning, rather than the vague "historic, cultural, natural, recreational, or scenic".

Mr. Chairman, the people within the Delaware and Lehigh Navigation Canal National Heritage Corridor have worked very hard to carry out what they understand is the direction of the Congress—that economic development and resource preservation can be complementary and mutually supportive. They deserve our thanks and further encouragement and extension of their operating authority.

Thank you for the opportunity to testify before you today, this concludes my prepared remarks.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 1665, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

(Public Law 100-692, November 18, 1988)

SECTION 1. SHORT TITLE.

This Act may be cited as the [“Delaware and Lehigh Navigation Canal National Heritage Corridor”] *Delaware and Lehigh National Heritage Corridor Act of 1988*”.

* * * * *

SEC. 3. ESTABLISHMENT OF NATIONAL HERITAGE CORRIDOR; PURPOSE

(a) ESTABLISHMENT.—There is hereby established in the Commonwealth of Pennsylvania the [Delaware and Lehigh Navigation Canal National Heritage Corridor] *Delaware and Lehigh National Heritage Corridor* (hereinafter in this Act referred to as the “Corridor”).

(b) PURPOSE.—It is the purpose of this Act to provide a management framework to assist the Commonwealth and its political subdivisions *in enhancing economic development within the context of preservation and* in developing and implementing integrated cultural, historical, and natural resource policies and programs that will preserve and interpret for the educational and inspirational benefit of present and future generations the unique and significant contributions to our national heritage of certain historic and cultural lands, waterways, and structures within [and surrounding Delaware and Lehigh Navigation Canal National in the Commonwealth] *the Corridor*.

* * * * *

SEC. 5. [DELAWARE AND LEHIGH NAVIGATION CANAL NATIONAL HERITAGE CORRIDOR] *DELAWARE AND LEHIGH NATIONAL HERITAGE CORRIDOR COMMISSION*.

(a) ESTABLISHMENT.—There is hereby established the [Delaware and Lehigh Navigation Canal National Heritage Corridor] *Delaware and Lehigh National Heritage Corridor Commission* (hereinafter in this Act referred to as the “Commission”). The Commission shall assist appropriate Federal, State, and local authorities in the development and implementation of an integrated resource management plan for the Corridor.

(b) MEMBERSHIP.—The Commission shall be composed of 21 members [appointed not later than 6 months after the date of enactment of this Act] as follows:

(1) The Director of the National Park Service ex officio (or his delegate).

[(2) 4 individuals appointed by the Secretary, after receiving recommendations from the Governor who shall represent the Pennsylvania Department of Environmental Resources, the Pennsylvania Historical and Museum Commission, the Penn-

sylvania Department of Commerce/Economic Development partnership, and the Pennsylvania Department of Community Affairs.】 (2) *3 individuals appointed by the Secretary upon consideration of individuals recommended by the Governor, of whom*

(A) *1 shall represent the Pennsylvania Department of Conservation and Natural Resources;*

(B) *1 shall represent the Pennsylvania Department of Community and Economic Development; and*

(C) *1 shall represent the Pennsylvania Historical and Museum Commission.*

(3) *8 representatives of local governments from the Commonwealth appointed by [the Secretary, after receiving recommendations from the Governor, of whom 4 shall be representatives from the Lehigh Navigation Canal region and 4 shall be representatives from the Delaware Canal region.] the Secretary upon consideration of individuals recommended by the Governor, or whom*

(A) *1 shall represent a city, 1 shall represent a borough, and 1 shall represent a township; and*

(B) *1 shall represent each of the 5 counties of Luzerne, Carbon, Lehigh, Northampton, and Bucks in Pennsylvania; and*

(4) **【8 individuals】** *9 individuals from the general public who are citizens of the Commonwealth appointed by [the Secretary, after receiving recommendations from the Governor, who shall have knowledge and experience in appropriate fields of interest, relating to the preservation, use, and interpretation of the Corridor of whom 4 shall be residents of the Lehigh Navigation Canal region and 4 shall be residents of the Delaware Canal region. A vacancy] the Secretary upon consideration of individuals recommended by the Governor of whom*

(A) *3 shall represent the northern region of the Corridor;*

(B) *3 shall represent the middle region of the Corridor; and*

(C) *3 shall represent the southern region of the Corridor.*

A vacancy in original appointment was made.

【(c) TERMS.—Members of the Commission shall be appointed for terms of 3 years and may be reappointed.】 (c) *TERMS.—The following provisions shall apply to a member of the Commission appointed under paragraph (3) or (4) of subsection (b):*

(1) *Length of term. The member shall serve for a term of 3 years.*

(2) *Carryover. The member shall serve until a successor is appointed by the Secretary.*

(3) *Replacement. If the member resigns or is unable to serve due to incapacity or death, the Secretary shall appoint, not later than 60 days after receiving a nomination of the appointment from the Governor, a new member to serve for the remainder of the term.*

(4) *Term Limits. A member may serve for not more than 2 full terms starting after the date of enactment of this paragraph.*

* * * * *

SEC. 7. POWERS OF COMMISSION.

* * * * *

(g)(3) Any real property or interest in real property acquired by the Commission under paragraph (2) shall be conveyed by the Commission to an appropriate public agency *or nonprofit organization* as determined by the Commission.

* * * * *

(h) COOPERATIVE AGREEMENTS.—For purposes of carrying out the plan, the Commission may enter into cooperative agreements with Commonwealth, with any political subdivision of the commonwealth, *any nonprofit organization*, or with any person. Any such cooperative agreement shall, at a minimum, establish procedures for providing notice to the Commission of any action proposed by the Commonwealth, such political subdivision, *such nonprofit organization*, or such person which may affect the implementation of the Plan.

* * * * *

SEC. 8. DUTIES OF THE COMMISSION.

* * * * *

(b) IMPLEMENTATION OF PLAN.—After review and approval of the Plan by the Secretary of the Interior as provided in section 10(a), the Commission shall implement the Plan by taking appropriate steps to preserve and interpret the historic, *cultural, natural, recreational, and scenic* resources of the Canal and its surrounding area, and to support public and private efforts in economic revitalization consistent with the goals of the Plan.

* * * * *

SEC. 9. TERMINATION OF COMMISSION

(a) TERMINATION.—Except as provided in subsection (b), the Commission shall terminate on the occurring **5 years** after the date of the enactment of this Act *10 years after the date of enactment of the Delaware and Lehigh National Heritage Corridor Act Amendments of 1997.*

* * * * *

SEC. 10.

[(d) TECHNICAL ASSISTANCE.—The Secretary of the Interior shall, upon the request of the Commission, provide technical assistance to the Commission in the preparation and implementation of the Plan.] *(d) TECHNICAL ASSISTANCE AND GRANTS.—The Secretary, upon request of the Commission, provide grants and technical assistance to the Commission or units of government, nonprofit organizations, and other person, for development and implementation of the Plan.*

SEC. 11. DUTIES OF OTHER FEDERAL ENTITIES.

Any Federal entity conducting or supporting activities directly affecting **the flow of the Canal or the natural** *the purposes of the Corridor* shall—

(1) consult with the Secretary and the Commission with respect to such activities;

* * * * *

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

(a) COMMISSION.—There is authorized to be appropriated annually to the Commission to carry out its duties under this Act **[\$350,000]** *\$650,000*, except that the Federal contribution to the Commission shall not exceed 50 percent of the annual costs to the Commission in carrying out those duties.

(b) SECRETARY.—There are authorized to be appropriated annually to the Secretary such sums as may be necessary to carry out his duties under this Act.

(c) *Management Action Plan.*—

(1) *In general. To implement the management action plan created by the Commission, there is authorized to be appropriated \$1,000,000 for each of fiscal year 1998 through 2007.*

(2) *Limitation on Expenditures. Amounts made available under paragraph (1) shall not exceed 50 percent of the costs of implementing the management action plan.*

SEC. 13. LOCAL AUTHORITY AND PRIVATE PROPERTY.

The Commission shall not interfere with—

(1) *the private property rights of any person; or*

(2) *any local zoning ordinance or land use plan of the Commonwealth of Pennsylvania or any political subdivision of Pennsylvania.*

SEC. [13] 14 Definitions.

For the purposes of this Act—

(1) the term “Canal” means the Delaware and Lehigh Navigation Canal;

(2) the term “Commission” means the **[Delaware and Lehigh Navigation Canal National Heritage Corridor]** *Delaware and Lehigh National Heritage Corridor* Commission established under section 5(a);

(3) the term “Commission” means the Commonwealth of Pennsylvania;

(4) the term “Corridor” means the **[Delaware and Lehigh Navigation Canal National Heritage Corridor]** *Delaware and Lehigh National Heritage Corridor* established under section 3(a);

(5) the term “Plan” means the Cultural Heritage and Corridor Management Plan to be prepared by the Commission pursuant to section 8(a);

(6) the term “Secretary” means the Secretary of the Interior.